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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,668	10/12/2006	Peter John Houzego	PC32750	4567
28523	7590	09/08/2009		
PFIZER INC. PATENT DEPARTMENT Bld 114 M/S 114 EASTERN POINT ROAD GROTON, CT 06340			EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 09/08/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

~IPGSGro@pfizer.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,668	<b>Applicant(s)</b> HOUZEGO, PETER JOHN	
	<b>Examiner</b> Timothy L. Maust	<b>Art Unit</b> 3751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/6/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10, 14 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by E. A. Wahl (2857938)

Regarding claims 1, 20 and 21, the Wahl reference discloses a method of filling with powder (33) a plurality of containers (21) having an open end, the method including: positioning an outlet of a hopper (20) containing powder (33) above the open end of the containers on support (10); mechanically agitating the hopper so as to cause powder to be transferred from the hopper to the container; and mechanically agitating the container; wherein the steps of mechanically agitating are conducted by at least a predetermined amount sufficient to ensure that the container is filled with powder at a predetermined density (see col. 6, lines 27 – 43.

Regarding claims 2 and 3, see column 6, lines 40-43.

Regarding claim 4-6, the outlet of hopper is adjustable to vary the filling volume of container (21); see col. 8, lines 57-60.

Regarding claim 7, the outlet of the hopper is an orifice.

Regarding claims 10, 14, 17, 19, the hopper and container, as one super structure, are vibrated at the same time via electro-magnetic vibrator 12, which is cammed (see Figures 24-26).

Regarding claim 16, a powder tight seal is shown in Figure 20.

Regarding claim 18, for density variations see column 15, lines 54-56.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over E. A. Wahl.

Regarding claims 8, 9, 11-13 and 15, the Wahl reference discloses the invention substantially as claimed (discussed supra), but doesn't disclose an orifice being 0.5mm, mechanical agitation including lifting the hopper and container by 1-10mm, tapping 50-500 times, acceleration of approximately 1000 G and vibrating at a frequency between 100 Hz and 1 kHz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the above operational sizes and ranges on the Wahl device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record pertains to various powder filling apparatus, similar to the Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4883. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/  
Primary Examiner  
Art Unit 3751

8/28/08

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